

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WISCONSIN

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MARK STEPHENS,

Plaintiff,

v.

Case No. \_\_\_\_\_

AMERICAN FAMILY MUTUAL  
INSURANCE COMPANY, S.I.,

Defendant.

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**NOTICE OF REMOVAL**

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PLEASE TAKE NOTICE THAT pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant American Family Mutual Insurance Company, S.I., (“American Family”) by its attorneys, hereby removes the action styled as *Mark Stephens v. American Family Mutual Insurance Company, S.I.*, Case No. 21-CV-552, filed in the Circuit Court of Dane County, Wisconsin.

In support of removal, American Family states as follows:

1. On March 5, 2021, Plaintiff Mark Stephens (“Plaintiff” or “Stephens”) filed an action against American Family in Dane County Circuit Court, titled *Mark Stephens v. American Family Mutual Insurance Company, S.I.*, 21-CV-552.

2. Pursuant to 28 U.S.C. § 1446(a), copies of all the pleadings served on American Family and filed with the state court are attached to the Declaration of Tanya M. Salman (“Salman Decl.”) as Exhibit 1.

3. American Family was served with a Summons and Complaint on March 12, 2021. (Salman Decl., ¶ 3.)

4. In the Complaint, Stephens alleges the following five causes of action against American Family: (i) American Family created a race-based hostile working environment for Stephens in violation of 42 U.S.C. § 1981 and 42 U.S.C. § 2000e-2(a)(1); (ii) American Family retaliated against Stephens by “intensifying racial hostility” towards him, firing him, and filing a lawsuit against him in violation of 42 U.S.C. § 1981 and 42 U.S.C. § 2000e-3(a); (iii) American Family discriminated against Stephens by allegedly insisting he waive and release claims during prior litigation in violation of 42 U.S.C. § 1981 and 42 U.S.C. § 2000e-2(a)(1); (iv) American Family maliciously prosecuted Stephens by filing a lawsuit against him; and (v) American Family committed abuse of process against Stephens by filing a lawsuit against him. (Complaint ¶¶ 92-98.)

5. No other pleading, process, or order in this action has been received by Defendant prior to receipt of the Summons and Complaint on March 12, 2021. (*Id.*)

6. This Notice of Removal is filed timely, in that it is filed “within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading.” 28 U.S.C. § 1446(b)(1).

7. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1367(a). Plaintiff has alleged claims arising under federal law. In particular, Stephens alleges federal employment discrimination claims under 42 U.S.C. § 1981, et seq., and 42 U.S.C. § 2000e against American Family. This Court also has jurisdiction over the malicious prosecution and abuse of process state law claims because the state law

claims rely on the same facts and the application of the same statutes, making them “part of the same case or controversy” as the federal law claims. 28 U.S.C. § 1367(a). Accordingly, this Court has jurisdiction over all of the claims in the Complaint. *See* 28 U.S.C. §§ 1331, § 1367(a), 1441(a), 1441(c).

8. The United States District Court for the Western District of Wisconsin is the proper venue for removal from the state court, because this is the Court “encompassing the county of the State in which the case was pending.” 28 U.S.C. § 1441(a).

9. If any question arises as to the propriety of the removal of this action, American Family requests the opportunity to conduct limited discovery and to present a brief and oral argument in support of its position that this case is removable.

10. Pursuant to 28 U.S.C. § 1446(d), written notice of this Notice of Removal is being provided to Plaintiff, and a copy of this Notice of Removal is being filed with the Clerk for the Circuit Court in Dane County Circuit Court, 215 S Hamilton St, Madison, WI 53703.

11. A copy of the notice to the state court – without the exhibits thereto – is attached to the Declaration of Tanya M. Salman as Exhibit 2. (Salman Decl., ¶ 4.)

12. The removal of this action to this Court does not waive Defendant’s ability to assert any defense in this action.

WHEREFORE, Defendant has removed this action to this Court in accordance with the statutes cited herein.

